

**2901.603-74 Legal review and assistance.**

Proposed acquisitions may be subject to legal review by the Office of the Solicitor of Labor. Internal DOL procedures are contained in the Department of Labor Manual Series (DLMS-2, Chapter 900, Section 910). Copies of the DLMS Chapter may be obtained upon written request from the Office of Procurement and Grant Policy, Directorate of Procurement and Grant Management, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

[51 FR 40373, Nov. 6, 1986]

**PART 2902—DEFINITIONS OF WORDS AND TERMS**

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

**Subpart 2902.1—Definitions****2902.101 Definitions.**

As used throughout this regulation, the following words and terms are used as defined in this subpart unless (a) the context in which they are used clearly requires a different meaning, or (b) a different definition is prescribed for a particular part or portion of a part:

*Contracting activity* means an agency or office within the Department with delegated procurement authority to manage contracting functions associated with its mission. Within the Office of the Assistant Secretary for Administration and Management, the National Capital Service Center is the contracting activity.

*Head of procuring activity* means the Assistant Secretary for Administration and Management; the Assistant Secretary for Employment and Training; the Assistant Secretary for Mine Safety and Health, and the Director, National Capital Service Center.

*Head of the agency* (also called *agency head*) means the Assistant Secretary for Administration and Management.

*Head of the contracting activity (HCA)* means the Assistant Secretary for Administration and Management; the Director, National Capital Service Center, and the head of each DOL Agency

and Office listed in 2901.603-1(b) who has overall responsibility for managing the contracting activity.

*Procurement Executive* means the Director, Directorate of Procurement and Grant Management, and is synonymous with the term *Senior Procurement Executive* defined at FAR subpart 2.1. Responsibilities of the Procurement Executive include appointing the DOL advocate for competition.

*Procuring activity* means the Office of the Assistant Secretary for Administration and Management; the Employment and Training Administration; the Mine Safety and Health Administration; and the National Capital Service Center.

[50 FR 8921, Mar. 5, 1985, as amended at 51 FR 40373, Nov. 6, 1986; 53 FR 3839, Feb. 9, 1988]

**PART 2903—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST****Subpart 2903.1—Safeguards**

Sec.

2903.101 Standards of conduct.

2903.101-3 Agency regulations.

**Subpart 2903.2—Contractor Gratuities to Government Personnel**

2903.203 Reporting suspected violations of the gratuities clause.

2903.204 Treatment of violations.

**Subpart 2903.3—Reports of Identical Bids and Suspected Antitrust Violations**

2903.302 Reporting identical bids.

2903.302-2 Reporting requirements.

**Subpart 2903.4—Contingent Fees**

2903.409 Misrepresentation or violation of the Covenant against Contingent Fees.

**Subpart 2903.5—Other Improper Business Practices**

2903.502 Subcontractor kickbacks.

**Subpart 2903.6—Contracts With Government Employees or Organizations Owned or Controlled by Them**

2903.602 Exceptions.

2903.603 Responsibilities of the contracting officer.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

## Department of Labor

2903.302-2

SOURCE: 50 FR 8921, Mar. 5, 1985, unless otherwise noted.

### Subpart 2903.1—Safeguards

#### 2903.101 Standards of conduct.

##### 2903.101-3 Agency regulations.

All DOL personnel engaged in acquisition related activities shall conduct such activities in a manner above reproach in every respect. See part 0 of title 29, CFR. Transactions relating to expenditure of public funds require the highest degree of public trust to protect the interests of the Government. See 2903.6 for requirements concerning contracting with current or former DOL employees.

### Subpart 2903.2—Contractor Gratuities to Government Personnel

#### 2903.203 Reporting suspected violations of the gratuities clause.

(a) *Action official.* The Director, Directorate of Procurement and Grant Management, is the DOL official authorized to take action pursuant to FAR 3.204(c) against a contractor if it is determined that a violation of the clause at FAR 52.203-3, Gratuities, has occurred. This authority may not be redelegated.

(b) *Referral.* Whenever a suspected violation of the clause at FAR 52.203-3, Gratuities, becomes known to a DOL employee, the matter shall be reported to the cognizant contracting officer. The report shall be in writing and shall clearly state the circumstances surrounding the incident or incidences where it is alleged that the contractor offered or gave a gratuity to a DOL employee and intended by the gratuity to obtain a contract or favorable treatment under a contract. The date(s), location(s), and name(s) of all parties involved in the incident shall be included in the report. The report shall also include a recommended course of action in accordance with FAR 3.204(c) and shall be submitted through the head of the contracting activity to the Director, Directorate of Procurement and Grant Management for disposition.

#### 2903.204 Treatment of violations.

(a) *Notice of contractor.* After review of the report and consultation with the Office of the Solicitor and Office of the Inspector General, as appropriate, the Director, Directorate of Procurement and Grant Management shall determine further action to be taken. If requested, the contractor shall be provided with a formal notice which summarizes the events involving the suspected violations and affords the contractor the opportunity to take the action(s) listed under FAR 3.204(b). The notice shall contain a reasonable time limit for reply and shall be sent by certified mail, return receipt requested.

(b) *Action.* Based on the contractor's response to the notice; the results of any further discussions with the contractor, the counsel, or witnesses; the review of additional documentary evidence; and other pertinent information, the Director, Directorate of Procurement and Grant Management, shall make a final and binding decision on the action to be taken in accordance with FAR 3.204(c) and shall provide the contractor with a formal notice of such action.

[50 FR 8921, Mar. 5, 1985, as amended at 51 FR 40373, Nov. 6, 1986]

### Subpart 2903.3—Reports of Identical Bids and Suspected Antitrust Violations

#### 2903.302 Reporting identical bids.

##### 2903.302-2 Reporting requirements.

Potential anti-competitive practices, such as described in FAR 3.301, and antitrust law violations as described in FAR 3.303, evidenced in bids or proposals shall be reported to the Office of the Solicitor through the Head of the Contracting Activity with a copy to the Director, Directorate of Procurement and Grant Management. The Office of the Solicitor will provide reports to the Attorney General as appropriate.

**Subpart 2903.4—Contingent Fees****2903.409 Misrepresentation or violation of the Covenant against Contingent Fees.**

(a) Suspected misrepresentation or violations of the Covenant Against Contingent Fees shall be documented and reported promptly to the contracting officer for review and action under FAR 3.409.

(b) Suspected fraudulent or criminal violations shall be documented in a report and submitted by the contracting officer to the Office of the Solicitor prior to initiation of any actions outlined in FAR 3.409(b). A copy of the report shall be submitted to the Director, Directorate of Procurement and Grant Management.

**Subpart 2903.5—Other Improper Business Practices****2903.502 Subcontractor kickbacks.**

(a) Reports on suspected violations of the Antikickback Act as required by FAR 3.502(b) shall be prepared by the contracting officer and submitted by the head of the contracting activity to the Office of the Solicitor for further action. A copy of the report shall be submitted to the Director, Directorate of Procurement and Grant Management.

(b) The head of the contracting activity may initiate debarment or suspension action in accordance with FAR 9.406–2 or 9.407–2 and 2909.4 of this chapter.

**Subpart 2903.6—Contracts With Government Employees or Organizations Owned or Controlled by Them****2903.602 Exceptions.**

(a) The Assistant Secretary for Administration and Management is authorized to except a contract from the policy in FAR 3.601.

(b) Negotiated contracts or grants or amendments to existing contracts or grants which constitute new acquisition (including those for the rental of real or personal property) may be entered into with former employees of DOL or with firms in which former employees are known to have a substantial interest, within a period of 1 year subsequent to the termination of the individual's employment by DOL, only with the prior written approval of the Assistant Secretary for Administration and Management.

**2903.603 Responsibilities of the contracting officer.**

Approval of a decision to grant an exception as provided in 2903.602 shall be documented by a written determination and findings prepared by the contracting officer for signature by the Assistant Secretary for Administration and Management. The determination and findings shall document compliance with FAR 3.603 and 2909.5; specify the compelling reason(s) for award; and be placed in the contract file.

**PART 2904—ADMINISTRATIVE MATTERS**

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8922, Mar. 5, 1985, unless otherwise noted.

**Subpart 2904.6—Contract Reporting****2904.601 Federal Procurement Data System.**

(a) DOL's data collection point is the Office of Procurement and Grant Policy, Directorate of Procurement and Grant Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

(b) The SF 279, Individual Contract Action Report (over \$10,000), and SF 281, Summary of Contract Actions of \$10,000 or less, are due monthly on the tenth day of the month.